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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,583	07/01/2003	Terence J. Knowles	14978US01	5227
7590	07/08/2005		EXAMINER	
McAndrews, Held & Malloy, Ltd. 34th Floor 500 West Madison Street Chicago, IL 60661				DOUGHERTY, THOMAS M
		ART UNIT		PAPER NUMBER
				2834

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/611,583	KNOWLES, TERENCE J.
	Examiner	Art Unit
	Thomas M. Dougherty	2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 April 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 47-60 and 62-64 is/are withdrawn from consideration.
- 5) Claim(s) 1-42 and 61 is/are allowed.
- 6) Claim(s) 43-46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 July 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>903</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Examiner Comments

Claims 8-42 have been rejoined and examined in view of the prior art. These claims all include a noncylindrical shape to the substrate.

Double Patenting

Claims 1-46 and 61 are provisionally rejected under the judicially created doctrine of double patenting over claims 57-87 of copending Application No. 10/454,003. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the acoustic wave cavity, its shapes and transducer.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 43-46 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson et al. (US 5,813,280). Johnson et al. shows (figs. 1, 2, 3a) an acoustic wave sensor comprising: an acoustic wave cavity (101) formed in a substrate and defined by an area having an increased mass, the acoustic wave cavity having a first surface and a second surface opposite the first surface, at least one of said first and second surfaces being planar (these are the surfaces defined by the step at 201); and at least one transducer (301-303 in fig. 3a) adjacent the first or second surface of the acoustic wave cavity to generate a torsional acoustic wave in the acoustic cavity (see col. 5, ll. 44-49).

The area of increased mass (101) is a raised area.

The transducer is mounted on the first or second surface of the acoustic wave cavity (see 303 covering the raised area in fig. 3a).

The transducer (301-303) is an electro-magnetic transducer.

Allowable Subject Matter

Claims 1-42 and 61 would be allowed pending reception of the terminal disclaimer.

The following is an examiner's statement of reasons for indicating allowance: the prior art doesn't show an acoustic wave cavity formed in a noncylindrical substrate defined by an area having a raised area or a mass per surface area that is greater than the mass per surface area of the substrate adjacent to the acoustic wave cavity with an offset transducer or transducers.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art cited reads on at least some aspects of the claimed invention.

tmd
tmd

July 6, 2005

Thomas M. Dougherty
TOM DOUGHERTY
PRIMARY EXAMINER